



## Judicial Council of California

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**TO:** Court of Appeal Presiding Justices and Clerks  
Members, Administrative Presiding Justices Advisory Committee  
Members, Appellate Advisory Committee

**FROM:** June Clark, Senior Attorney

**DATE:** February 28, 2006

**SUBJECT:** Report of Legislation of Interest to Appellate Courts

Attached you will find two charts reflecting actions to date of the 2005-06 legislative session. The first chart consists of legislation of potential interest to the appellate courts. The second consists of legislation responding to California appellate and Supreme Court decisions.

These and other bills can be found on the Internet at **[www.leginfo.ca.gov/billinfo.html](http://www.leginfo.ca.gov/billinfo.html)**

JC:yt  
attachment  
cc: Bill Vickrey  
Ron Overholt  
Michael Bergeisen

## 2005-06 PENDING LEGISLATION AFFECTING THE APPELLATE COURTS

BILL	AUTHOR	SUMMARY	STAFF	JC POSITION	STATUS
AB 2480	Evans	Requires the appointment of appellate counsel for a dependent child unless the court finds that the child would not benefit from representation. States that the primary responsibility of the counsel shall be to advocate for the safety and well-being of the child, and specifies that the attorney shall not represent another party or agency whose interests conflict with the child's interests. (As introduced February 23, 2006.)	Tracy Kenny		Not yet referred to committee
SB 450	Poochigian	Provides that no appeal may be taken by a fugitive defendant or a defendant who has otherwise removed himself or herself from the jurisdiction of the appellate court. Also provides that notwithstanding any other provision of law, no appeal may be reinstated if the reinstatement is necessary because the defendant was not within the jurisdiction of the appellate court because the defendant was a fugitive or otherwise removed himself or herself from the jurisdiction of the appellate court during the pendency of the appeal. (As introduced.)	June Clark		Senate Public Safety Committee – Died.

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## 2005-06 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS

BILL	AUTHOR	SUMMARY	STATUS
<b>AB 69</b>	<b>Harman</b>	Clarifies the law governing who owns funds withdrawn from a multi-party account. Abrogates <i>Lee v. Yang</i> (2003) 111 Cal.App.4th 481, which allowed a party to a multi-party account to keep funds withdrawn although they exceeded the withdrawing party's net contribution to the account. Amends the California Multi-Party Account Law to provide that funds in a multi-party account are owned by the parties in proportion to their net contributions whether or not the funds remain on deposit. (As amended March 1, 2005)	Senate Judiciary Committee. 2-year bill.
<b>AB 570</b>	<b>Villines</b>	Responds to the holding in <i>People v. Howard</i> (2005) 34 Cal.4th 1129, which held fleeing law enforcement with a willful and wanton disregard for the safety of others is not inherently dangerous conduct for the purposes of the second degree felony murder rule. The bill provides instead that when death is the result of such conduct, there is nothing to preclude the imposition of a greater sentence under any other law, including but not limited to, a sentence based on a conviction of murder. (As amended May 11, 2005.)	Senate Public Safety Committee. 2-year bill.
<b>AB 758</b>	<b>Calderon</b>	Prohibits certain indemnification agreements in residential construction contracts. Provides, among other things, that the bill does not affect the obligations of an insurance carrier under the holding in <i>Presley Homes v. American States Insurance Company</i> (2001) 90 Cal.App.4th 571. (As amended May 31, 2005.)	Signed into law (Stats. 2005, ch. 394)
<b>AB 878</b>	<b>Chavez</b>	In <i>Keenan v. Superior Court of Los Angeles</i> (2002) 27 Cal. 4th 413, the court found that the state's Son of Sam law violated the First Amendment of the U.S. Constitution and similar provisions of the state constitution. This bill would instead impose a trust upon all profits or assets gained by a convicted felon that are a byproduct of the felony for which that felon was convicted, and upon all of the profits or assets gained by any other person, other than a victim. Any money in the trust that is not claimed by a beneficiary of the trust after a specified time period would be allocated to the Restitution Fund. (As amended April 20, 2005.)	Senate Judiciary Committee. 2-year bill.

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## 2005-06 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS

BILL	AUTHOR	SUMMARY	STATUS
AB 1158	Lieber	Makes a variety of changes to CCP section 425.16, the anti-SLAPP statute. Among other things, the bill declares the intent of the Legislature in amending subdivision (f) of section 425.16, to abrogate the decisions in <i>Decker v. UD Registry</i> (2003) 105 Cal.App.4th 1382, 1387-90, and <i>Fair Political Practices Commission v. American Civil Rights Coalition, Inc.</i> (2004) 121 Cal.App.4th 1171, 1174-78t is adopted. (As amended August 24, 2005.)	Signed into law (Stats. 2005, ch. 535)

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## 2005-06 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS

BILL	AUTHOR	SUMMARY	STATUS
AB 1322	Evans	<p>In 2002, Code of Civil Procedure section 170.1 was amended to require the disqualification of a judge who has a current arrangement concerning prospective employment or other compensated service as a dispute resolution neutral, or is participating in or has participated in, within the previous two years, discussions regarding that prospective employment or service, where: (1) the arrangements or discussions are with a party to the proceeding, or (2) the matter before the judge includes issues relating to the enforcement of an agreement to submit a dispute to alternative dispute resolution or the appointment or use of a dispute resolution neutral. (AB 2504, Stats. 2002, ch.1094, codified at CCP sec. 170.1(a)(8).)</p> <p>In <i>Hartford Casualty Insurance Co. v. Superior Court</i> (2004) 125 Cal.App.4th 250, the court took an unexpectedly broad interpretation of the disqualification provisions of CCP section 170.1(a)(8), which could severely hamper a trial court's ability to manage its civil litigation calendar. In <i>Hartford</i>, the trial judge disqualified himself under section 170.1(a)(8) based upon superficial, provider-initiated contacts regarding prospective employment or service as a neutral. This raises the concern that judges cannot do anything to prevent disqualification when an ADR provider initiates such contact, even when the result of that contact is the judge informing the provider that he or she is not interested in such employment. The Hartford court also determined that application of section 170.1(a)(8) was triggered when the judge referred the parties in the case to mediation but had no involvement in the identification or selection of the mediator.</p> <p>This bill amends Code of Civil Procedure section 170.1(a)(8) in order to more narrowly tailor the disclosure and disqualification criteria under the statute to those cases in which the potential for conflict is more readily apparent, consistent with the intent of the underlying legislation.</p> <p>Among other things, the bill states "the intent of the Legislature in enacting this act to construe and clarify the meaning and effect of existing law and to reject the interpretation given to the law in <i>Hartford Casualty Ins. Co. v. Superior Court of Los Angeles</i> (2004) 125 Cal.App.4th 250." (As amended August 18, 2005.)</p>	Signed into law (Stats. 2005, ch. 332)

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## 2005-06 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS

BILL	AUTHOR	SUMMARY	STATUS
<b>AB 1400</b>	<b>Laird</b>	Clarifies that sexual orientation and marital status are among the characteristics protected against discrimination by business establishments under the Unruh Civil Rights Act. Adds sexual orientation and marital status to the characteristics expressly protected against discrimination in related Civil Code provisions. Among other things, states the intent of the Legislature that “the amendments made to the Unruh Civil Rights Act by this act do not affect the California Supreme court’s rulings in <i>Marina Point, Ltd. v. Wolfson</i> (1982) 30 Cal.3d 721 and <i>O’Connor v. Village Green Owners Association</i> (1983) 33 Cal.3d 790.” (As amended July 7, 2005.)	Signed into law (Stats. 2005, ch. 420)
<b>AB 1742</b>	<b>Judiciary Committee</b>	Among other things, the bill clarifies that Government Code section 11135 applies to California State University. The bill also states that “it is the intent of the Legislature in amending Section 11135 of the Government Code to construe and clarify the meaning and effect of existing law and to reject the interpretation given to the law in <i>Garcia v. California State University</i> (Aug. 15, 2005, B178329) _ Cal.App.4th _ (2005 Cal.App. LEXIS 1267). (As amended September 2, 2005).	Signed into law (Stats. 2005, ch. 706)
<b>SB 249</b>	<b>Denham</b>	States the intent of the Legislature to address the issues raised by the California Supreme Court in <i>Keenan v. Superior Court of Los Angeles</i> (2002) 27 Cal. 4th 413 regarding the California "Son of Sam" law. Existing law imposes an involuntary trust upon the proceeds and profits from the sale or transfer of any thing or right of a felon, the value of which is enhanced by the notoriety gained from the commission of the felony, and specifies procedures whereby the beneficiaries of the trust may enforce their rights under the trust. The California Supreme Court, in <i>Keenan v. Superior Court of Los Angeles</i> (2002) 27 Cal. 4th 413, held that the provisions of this law, known as the "Son of Sam" law, were facially invalid under both the state and federal constitutions as violating protections on free speech. (As introduced.)	Not yet referred to Committee – Died.

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## 2005-06 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS

BILL	AUTHOR	SUMMARY	STATUS
<b>SB 296</b>	<b>Campbell</b>	Abrogates the Court of Appeal's holding in <i>Estate of Thomas</i> (2004) 124 Cal.App.4th 711, on whether a distribution to a trust is allocable to principal or income, and would immunize from liability in part those trustees who made allocations pursuant to the <i>Thomas</i> decision, as specified. (As amended April 26, 2005.)	Signed into law (Stats. 2005, ch. 51)
<b>SB 399</b>	<b>Escutia</b>	Among other things, creates new lien procedures for hospitals and other medical providers seeking reimbursement for services rendered to a Medi-Cal beneficiary because of an injury for which a third party is liable. States the intent of the Legislature to respond to the invitation of the California Supreme Court in <i>Olszewski v. Scripps Health</i> (2003), 30 Cal.4th 798, to permit providers to recover their reasonable and necessary charges while protecting Medi-Cal beneficiaries' rights to recover full damages from responsible third-party tortfeasors, and to preclude tortfeasors from receiving the benefit of the Medi-Cal program at the expense of providers, beneficiaries, and taxpayers. (As amended September 2, 2005.)	Vetoed
<b>SB 1015</b>	<b>Murray</b>	Provides that, upon request by a party, a court shall seal or redact any portion of a pleading in a dissolution of marriage action that lists the parties financial assets, liabilities, income, or expenses, or provides the location of, or identifying information about, those assets and liabilities, including a residential address. Requires the court to ensure that the sealed or redacted portions are no more than necessary to prevent the identification or location of the financial information. Requires the Judicial Council to adopt rules setting forth the procedures for sealing, unsealing, and redacting, and restoring pleadings pursuant to the above provision. Seeks to correct constitutional deficiencies in the statutory provision at issue found in <i>Burkle v. Burkle</i> 135 Cal.App.4th 1045 (2nd District, 2006). (As amended February 16, 2006.)	Assembly Judiciary Committee

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## 2005-06 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS

BILL	AUTHOR	SUMMARY	STATUS
SB 1386	Morrow	Provides that in a civil case, a written agreement to waive a jury trial with respect to an existing or future controversy is valid, enforceable, and irrevocable. States the intent of the Legislature to respond to Justice Chin's invitation in his concurring opinion in the case of <i>Grafton Partners v. Superior Court</i> (2005) 36 Cal.4th 944, to enact legislation expressly authorizing pre-dispute jury waivers. (As introduced February 21, 2006.)	Not yet referred to committee.

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